



TEXAS DEPARTMENT OF INSURANCE

Division of Workers' Compensation - Medical Fee Dispute Resolution (MS-48)

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MEDICAL FEE DISPUTE RESOLUTION FINDINGS AND DECISION

GENERAL INFORMATION

Requestor Name

Sentrix Pharmacy and Discount, L.L.C.

Respondent Name

State Office of Risk Management

MFDR Tracking Number

M4-17-1696-01

Carrier's Austin Representative

Box Number 45

MFDR Date Received

February 6, 2017

REQUESTOR'S POSITION SUMMARY

Requestor's Position Summary: "... the claim was submitted on 10/11/16 and it was received by the carrier on 10/15/16 ... On 11/18/16, the Pharmacy received an EOB from the carrier requesting additional information. Sentrix responded on 12/2/16 with the bill on the corrected form and it was received by the carrier on 12/12/16 ... no action was taken."

Amount in Dispute: \$1,244.50

RESPONDENT'S POSITION SUMMARY

Respondent's Position Summary: "The Office researched the bill history on this claim which found the carrier did receive a medical bill on 10/26/2016 for date of service 10/21/2016. Upon completion of a clean claim review the bill was found to not have been submitted on a DWC66 form as prescribed by the Division rule 133.10 (c) and was returned to provider on 11/10/2016 To date the Office has not received a complete bill on the correct form as prescribed by the Division for this date of service which would meet the criteria in Rule §133.10 to perform an audit."

Response Submitted by: State Office of Risk Management

SUMMARY OF FINDINGS

Dates of Service	Disputed Services	Amount In Dispute	Amount Due
October 21, 2016	Pharmacy Services – Compound	\$1,244.50	\$1,244.50

FINDINGS AND DECISION

This medical fee dispute is decided pursuant to Texas Labor Code §413.031 and applicable rules of the Texas Department of Insurance, Division of Workers' Compensation.

Background

1. 28 Texas Administrative Code §133.307 sets out the procedures for resolving medical fee disputes.
2. 28 Texas Administrative Code §102.4 establishes the rules for non-division communications.

3. 28 Texas Administrative Code §133.2 defines terms used in the medical billing and processing chapter.
4. 28 Texas Administrative Code §133.10 defines the requirements for submitting a complete pharmaceutical bill.
5. 28 Texas Administrative Code §133.240 sets out the requirements for payment or denial of a medical bill.
6. 28 Texas Administrative Code §134.503 sets out the fee guidelines for pharmaceutical services.
7. Texas Labor Code §408.027 sets out provisions related to payment of health care providers.
8. The documentation submitted to the division does not include explanations of benefits.

Issues

1. Did Sentrix Pharmacy and Discount, L.L.C. (Sentrix) submit a pharmaceutical bill to State Office of Risk Management (SORM) in accordance with 28 Texas Administrative Code §133.10?
2. Did SORM take final action to pay, reduce, or deny the disputed services?
3. Is Sentrix entitled to additional reimbursement?

Findings

1. Sentrix is seeking reimbursement of \$1,244.50 for a compound drug dispensed on October 21, 2016. In its position statement, SORM argued that “To date the Office has not received a complete bill on the correct form as prescribed by the Division for this date of service which would meet the criteria in Rule §133.10 to perform an audit.”

Sentrix asserted that after the rejection of the initial billing, “Sentrix responded on 12/2/16 with the bill on the corrected form...” The division finds that the submitted documentation includes a Statement of Pharmacy Services (DWC066) for the services in question, as required by 28 Texas Administrative Code §133.10. Box 28 of the DWC066 lists the prescription number for the service in question.

The submitted documentation also includes a USPS mail receipt with tracking number 9405 5118 9956 4416 0543 36 with a notation of the same prescription number assigned to the service in question post marked December 2, 2016. 28 Texas Administrative Code §102.4(h) states,

Unless the great weight of evidence indicates otherwise, written communications shall be deemed to have been sent on:

- (1) the date received, if sent by fax, personal delivery or electronic transmission or,
- (2) the date postmarked if sent by mail via United States Postal Service regular mail, or, if the postmark date is unavailable, the later of the signature date on the written communication or the date it was received minus five days. If the date received minus five days is a Sunday or legal holiday, the date deemed sent shall be the next previous day which is not a Sunday or legal holiday.

The division concludes that Sentrix submitted a pharmaceutical bill to SORM on December 2, 2016.

2. According to Texas Labor Code Sec. 408.027(b), SORM was required to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Sentrix. Corresponding 28 Texas Administrative Code §133.240(a) required SORM to take **final action** by issuing an explanation of benefits not later than the statutorily-required 45th day. 28 Texas Administrative Code §133.2(6) defines final action as follows:

Final action on a medical bill—

- (A) sending a payment that makes the total reimbursement for that bill a fair and reasonable reimbursement in accordance with §134.1 of this title (relating to Medical Reimbursement); and/or
- (B) denying a charge on the medical bill.

Sentrix submitted a USPS tracking document indicating that USPS tracking number 9405 5118 9956 4416 0543 36 was delivered on Monday, December 12, 2016 at the address listed on the receipt. This evidence supports that SORM received a pharmaceutical bill for the services in dispute on or about December 12, 2016. SORM was not relieved of its requirement to pay, reduce, or deny the disputed services not later than the 45th day after it received the pharmacy bill from Sentrix, in accordance with Texas Labor Code Sec.

408.027(b). When the insurance carrier receives a medical bill, it is obligated to take the following actions pursuant to 28 Texas Administrative Code §133.240:

- (a) An insurance carrier **shall take final action** [emphasis added] after conducting bill review on a complete medical bill...**not later than the 45th day** [emphasis added] after the insurance carrier received a complete medical bill...
- (e) The insurance carrier **shall send the explanation of benefits** [emphasis added] in accordance with the elements required by §133.500 and §133.501 of this title...The explanation of benefits shall be sent to:
 - (1) the health care provider when the insurance carrier makes payment or denies payment on a medical bill...

SORM argued in its position statement that “the drugs listed on the CMS-1500 and/or prescription are not addressed in the ODG’s Drug Formulary and pursuant to Rule §137.100 (e), the insurance carrier may retrospectively review, and if appropriate, deny payment for treatments and services not preauthorized under subsection (d) of this section.”

SORM’s failure to timely issue an explanation of benefits to Sentrix creates a waiver of defenses that SORM raised in its response to medical fee dispute resolution under 28 Texas Administrative Code §133.307(d)(2)(F):

The [carrier’s] response shall address only those denial reasons presented to the requestor prior to the date the request for MFDR was filed with the division and the other party. Any new denial reasons or defenses raised shall not be considered in the review...

Absent any evidence that SORM raised defenses that conform with the requirements of Title 28, Part 2, Chapter 133, Subchapter C, the division concludes that the defenses presented in SORM’s position statement shall not be considered for review because those assertions constitute new defenses pursuant to 28 Texas Administrative Code §133.307(d)(2)(F).

- 3. 28 Texas Administrative Code §134.503 applies to the compound in dispute and states, in pertinent part:
 - (c) The insurance carrier shall reimburse the health care provider or pharmacy processing agent for prescription drugs the lesser of:
 - (1) the fee established by the following formulas based on the average wholesale price (AWP) as reported by a nationally recognized pharmaceutical price guide or other publication of pharmaceutical pricing data in effect on the day the prescription drug is dispensed:
 - (A) Generic drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.25) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (B) Brand name drugs: $((\text{AWP per unit}) \times (\text{number of units}) \times 1.09) + \4.00 dispensing fee per prescription = reimbursement amount;
 - (C) When compounding, a single compounding fee of \$15 per prescription shall be added to the calculated total for either paragraph (1)(A) or (B) of this subsection; or
 - (2) notwithstanding §133.20(e)(1) of this title (relating to Medical Bill Submission by Health Care Provider), the amount billed to the insurance carrier by the:
 - (A) health care provider; or
 - (B) pharmacy processing agent only if the health care provider has not previously billed the insurance carrier for the prescription drug and the pharmacy processing agent is billing on behalf of the health care provider.

The compound in dispute was billed by listing each drug included in the compound and calculating the charge for each drug separately as required by 28 Texas Administrative Code §134.502(d)(2).

Each ingredient is listed below with its corresponding reimbursement amount as applicable.

Ingredient	NDC & Type	Price/ Unit	Total Units	AWP Formula \$134.503(c)(1)	Billed Amt \$134.503 (c)(2)	Lesser of (c)(1) and (c)(2)
Salt Stable LS Base	00395602157 Brand Name	\$3.36	85.20 gm	$\$3.36 \times 85.2 \times 1.09 = \312.04	\$286.24	\$286.24
Baclofen 4%	38779038808 Generic	\$35.63	4.8 gm	$\$35.63 \times 4.8 \times 1.25 = \213.78	\$170.99	\$170.99
Amantadine 8%	38779041109 Generic	\$24.225	9.6 gm	$\$24.225 \times 9.6 \times 1.25 = \290.70	\$232.60	\$232.60
Amitriptyline 2%	58597800308 Generic	\$19.15	2.4 gm	$\$19.15 \times 2.4 \times 1.25 = \57.45	\$45.92	\$45.92
Gabapentin 5%	58597801407 Generic	\$62.84	6.0 gm	$\$62.84 \times 6 \times 1.25 = \471.30	\$377.08	\$377.08
Ketoprofen 10%	58597801707 Generic	\$10.97	12.0 gm	$\$10.97 \times 12 \times 1.25 = \164.55	\$131.67	\$131.67
Total						\$1,244.50

The total reimbursement is therefore \$1,244.50. This amount is recommended.

Conclusion

For the reasons stated above, the Division finds that the requestor has established that additional reimbursement is due. As a result, the amount ordered is \$1,244.50.

ORDER

Based on the submitted information, pursuant to Texas Labor Code Sec. 413.031 and 413.019 (if applicable), the Division has determined that the requestor is entitled to additional reimbursement for the services in dispute. The Division hereby ORDERS the respondent to remit to the requestor the amount of \$1,244.50, plus applicable accrued interest per 28 Texas Administrative Code §134.130, due within 30 days of receipt of this Order.

Authorized Signature

Signature	Laurie Garnes Medical Fee Dispute Resolution Officer	April 20, 2017 Date
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YOUR RIGHT TO APPEAL

Either party to this medical fee dispute has a right to seek review of this decision in accordance with 28 Texas Administrative Code §133.307, 37 *Texas Register* 3833, applicable to disputes filed on or after June 1, 2012.

A party seeking review must submit a **Request to Schedule a Benefit Review Conference to Appeal a Medical Fee Dispute Decision** (form **DWC045M**) in accordance with the instructions on the form. The request must be received by the Division within **twenty** days of your receipt of this decision. The request may be faxed, mailed or personally delivered to the Division using the contact information listed on the form or to the field office handling the claim.

The party seeking review of the MFDR decision shall deliver a copy of the request to all other parties involved in the dispute at the same time the request is filed with the Division. **Please include a copy of the *Medical Fee Dispute Resolution Findings and Decision*** together with any other required information specified in 28 Texas Administrative Code §141.1(d).

Si prefiere hablar con una persona en español acerca de ésta correspondencia, favor de llamar a 512-804-4812.